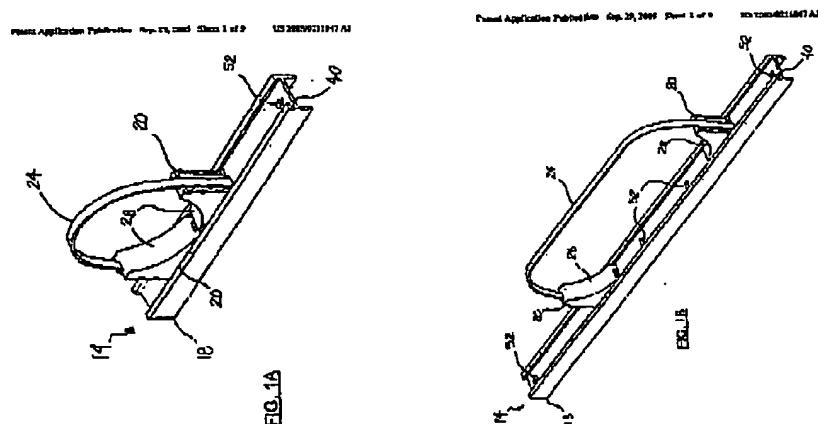


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Remarks

It is noted that as disclosed and claimed herein, the applicants' invention is a variable duct assembly for mounting one or more ducts thereon which includes one or more rails each having a groove, which grooves have one or more pairs of support brackets positioned therein for supporting a proximal surface of the ducts. The support brackets are coupled to one or more flexible bands and are used for clamping the duct between the support brackets and the flexible bands. The flexible bands contact and wrap around the duct so as to distribute the load substantially across the distal surface. The support brackets further each include support portions for distributing the load substantially across a proximal surface of each duct. The claims all recite that the aforesaid assembly is intended for mounting to an airframe for an aircraft.

Figures 1A and 1B clearly show the critical elements of the invention.



Claims 1-9 and 23-35, all of the claims under consideration in this application, have been rejected under 35 U.S.C. 103(a) as being unpatentable over Dean (6,164,507) in view of Bach (2,375,513).

The Examiner's position is that Dean teaches a rail 20 (in fact, reference numeral 20 identifies a "roof rack mounted on the roof 18 of vehicle 12" and is configured to support a watercraft), at least one pair of support brackets 28 "coupled to rail positioned to support proximal surfaces (in fact the rack 20 includes a plurality of towers mounted on either side of the vehicle roof with cylindrical cross-bars 24 attached to opposing towers and extending laterally over the roof of the vehicle), and at least one flexible band 84 for distributing a clamping load substantially across a distal surface. (Dean is specific that the securing members 32 are connected to hold the boat securely against mounts 28 so that the boat will not be dislodged from the mounts during operation of the vehicle).

The Examiner admits that Dean does not teach the use of a grooved rail, but rather a curved tube along which the brackets clamp, nor does Dean teach supporting a duct. The Examiner however relied on Bach for curing this omission, noting that Bach and Dean are in the same fields of endeavor, being adjustable mounting systems.

The Examiner has absolutely no basis for his conclusion that Dean and Bach are in the same field of endeavor. The field of supporting a boat on the roof of a car is totally unrelated to the field of providing a pipe hanger assembly for attachment of pipes as may be required in the building art.

More importantly Dean is directed to technology that is so far removed from the field to which the instant invention pertains that it is a reference from a nonanalogous art and can not be properly considered in determining obviousness under section 103. The

test of obviousness is if the difference between the invention and prior art are such that "the subject matter as a whole would have been obvious...to a person having ordinary skill in the art to which the invention pertains" (underlining ours).

Art B is analogous to art A if the hypothetical person seeking a solution to a problem in technology A would be likely to seek the solution by referring to information in technology B. The classic test is 1) is the art from the same field of endeavor regardless of the problem addressed? and 2) if the art is not within the same field of endeavor, is it still reasonably pertinent to the particular problem involved? As held in *re Wood*, 599 F.2d 1032, 1036, 202 USPQ 171, 174 (C.C.P.A. 1979), "in resolving the question of obviousness under 35 U.S.C. §103, we presume full knowledge by the inventor of all the prior art in the field of his endeavor. However, with regard to prior art outside the field of his endeavor, we only presume knowledge from those arts reasonably pertinent to the particular problem with which the inventor was involved... The rationale behind this rule precluding rejections based on combinations of teachings of references from nonanalogous arts is the realization that an inventor could not possibly be aware of every teaching in every art."

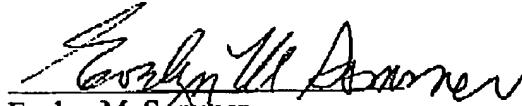
Here, the Dean reference is not from the same field of endeavor and is not pertinent to either the instant invention or the Bach invention. It would not seem that anyone seeking to provide a variable duct assembly for mounting of ducts would turn to the art of boat racks.

It is submitted that the combination of references is improper and that the same can not be properly applied against any of the claims in the application.

It is submitted that all of the claims in the application are allowable to the applicants and notification to this effect is now respectfully requested.

Respectfully submitted,
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